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A4
(h) allowing said foaming polymer material to cure.

26. (New) The insulated shipping container as claimed in claim 1 wherein said insulated insert fits snugly within said outer box, with said flexible, un-foamed polymer bag of said insulated insert in contact with said outer box, and wherein said inner box fits snugly within said insulated insert, with said flexible, un-foamed polymer bag of said insulated insert in contact with said inner box.

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claims 7-9 and 20-23 have been canceled herein. Claims 1, 10 and 24 have been amended herein. New claims 25 and 26 have been added herein. Therefore, claims 1-6, 10-19 and 24-26 are under active consideration.

Claims 1-7 and 14 stand rejected under 35 U.S.C. 102(e) "as being clearly anticipated by Grogan."

Insofar as the foregoing rejection relates to claim 7, the rejection is moot in view of Applicant's cancellation herein of claim 7. Insofar as the foregoing rejection relates to claims 1-6 and 14, Applicant respectfully traverses the foregoing rejection.

Claim 1, from which claims 2-6 and 14 depend, has been amended herein to include the limitations of canceled claims 7-9 and now recites "[a]n insulated shipping container comprising:

(a) an outer box;

(b) an insulated insert, said insulated insert being slidably removably

disposed within said outer box, said insulated insert comprising

(i) a foamed polymer body shaped to define a rectangular prismatic cavity bounded by four rectangular side walls and a bottom wall, said foamed polymer body having an open top end, and

(ii) a flexible, un-foamed polymer bag, said flexible, un-foamed polymer bag having a generally uniform width over its length and being integrally bonded to said foamed polymer body along said rectangular prismatic cavity, said open top end and said four rectangular side walls; and

(c) an inner box, said inner box being slidably removably disposed within said insulated insert."

Thus amended, claim 1 is neither anticipated by nor rendered obvious over Grogan for at least the reason that Grogan fails to teach or to suggest an insulated shipping container comprising an insulated insert wherein said insulated insert comprises, *inter alia*, a flexible, un-foamed polymer bag, said flexible, un-foamed polymer bag having a generally uniform width over its length and being integrally bonded to said foamed polymer body along said rectangular prismatic cavity, said open top end and said four rectangular side walls. Grogan, by contrast, discloses (see Fig. 4) an insulating member 40 that includes a bottom panel 41 and four side panels 43, each of panels 41 and 43 including a separate barrier film 47 surrounding an insulating core 48.

Claims 6 and 14 are further patentable over Grogan for at least the reason that Grogan fails to teach or to suggest an inner box having an open top end.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 15-18 stand rejected under 35 U.S.C. 102(b) "as being clearly anticipated by Lantz ('017)" and stand rejected under 35 U.S.C. 102(e) "as being clearly anticipated by Lantz ('764)."

Applicant respectfully traverses the foregoing rejections. Claim 15, from which claims 16-18 depend, recites "[a]n insulated shipping container comprising:

(a) a foamed polymer body shaped to define a rectangular prismatic cavity bounded by four rectangular side walls and a bottom wall, said foamed polymer body having an open top end; and

(b) a flexible, un-foamed polymer bag integrally bonded to said foamed polymer body along said rectangular prismatic cavity, said open top end and said four rectangular side walls, said flexible, un-foamed polymer bag having a generally uniform width over its length."

Claim 15 is neither anticipated by nor rendered obvious over Lantz ('017) or Lantz ('764) for at least the reason that neither Lantz ('017) nor Lantz ('764) teaches or suggest an insulated shipping container comprising, *inter alia*, a flexible, un-foamed polymer bag wherein **said flexible, un-foamed polymer bag has a generally uniform width over its length**. By contrast, each of Lantz ('017) and Lantz ('764) discloses a bag whose width changes dramatically over its length, most particularly over its curved **transition** section (see, for example, transition section 84 in Fig. 11a of Lantz ('017) or Lantz ('764)).

Claim 16 is further distinguishable over each of Lantz ('017) and Lantz ('764) for the

reason that neither Lantz patent teaches or suggests sizing the bag to be approximately equal to the outer dimension of the foamed polymer bag. In fact, both Lantz patents clearly teach away from sizing the bag in such a manner as this would defeat the very objective of the Lantz patents, namely, the elimination of virtually all excess bag material so as to result in a foamed body of uniform thickness and substantially free of fissures.

Accordingly, for at least the above reasons, the foregoing rejections should be withdrawn.

Claims 8-14, 19 and 24 stand rejected under 35 U.S.C. 103(a) "as being unpatentable over Grogan in view of Lantz ('017) or Lantz ('764)." In support of the rejection, the Patent Office states the following:

Grogan discloses the invention except for the bag integrally bonded to the foamed polymer body. Either Lantz teaches integrally bonding a bag to a foamed polymer bag. It would have been obvious to add the integrally bonded bag to the foamed body in order to make the foamed polymer insulation easily separable from the boxes of the invention.

For claim 13, polyethylene and hexene bag materials would have been obvious by design choice.

For claim 14, it would have been obvious to replace the flaps on the inner box with a closure member which fits by plugging the open top end and being removably disposed within the open top end.

For claim 24, it would have been obvious to secure a torn elongated plastic bag to the corrugated fiberboard box in order to prevent the bag from being separated from the box so that the box will always protect the bag from further puncture and the box will always have the polymer foam insulation attached to keep the box thermally insulated. Note that the outer box still remains separable.

Insofar as the foregoing rejection relates to claims 8-9, the rejection is moot in view of Applicant's cancellation herein of claims 8-9. Insofar as the foregoing rejection relates to claims 10-14, 19 and 24, Applicant respectfully traverses the foregoing rejection.

Claims 10-14 depend from claim 1. Claim 1 is patentable over Grogan for at least the reasons given above. The Lantz patents, which fail to teach or to suggest a flexible, un-foamed polymer bag having a generally uniform width over its length, do not cure all of the deficiencies of Grogan. Therefore, the combination of Grogan with either Lantz patent fails to render obvious claim 1. Claim 10 is further distinguishable over the applied references for its recital that the bag is sized to be approximately equal to the outer dimension of the foamed polymer body. Claim 12 is even further distinguishable over the applied references for its recital that the bag is formed by sealing one end of a generally tubular member to itself with a transverse seam and forming a pair of longitudinal creases on opposite ends of said transverse seam.

Claim 19 depends from claim 15. Claim 15 is patentable over the Lantz patents for at least the reasons given above. Grogan, which does not even disclose a bag bonded to a foamed polymer body along its cavity, open top end and four side walls, fails to cure all of the deficiencies of the Lantz patents.

Claim 24 has been re-written herein in independent form. The insulated shipping container made according to the method recited in claim 24 is not taught or suggested by the applied combination of references. In particular, the references, taken individually or in combination, do not teach or suggest a torn bag secured to the corrugated fiberboard box. The Patent Office has stated a theory as to why it believes it may be obvious to

secure the torn bag to the corrugated box, as recited in claim 24. However, the Patent Office has failed to substantiate its theory through teachings found in the prior art. None of the references teach the motivation relied upon by the Patent Office. Moreover, the Patent Office has failed to explain why it would have been obvious to tear the plastic bag in the first place.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claim 19 stands rejected under 35 U.S.C. 103(a) "as being unpatentable over Lantz ('017) or Lantz ('764) in view of Grogan." In support of the rejection, the Patent Office states the following:

Either Lantz discloses the invention except for inner box. Grogan teaches an inner box. It would have been obvious to add an inner box to protect the inside of the bag from being punctured by the contents placed within the shipping container.

Applicants respectfully traverse the foregoing rejection. Claim 19 depends from claim 15. Claim 15 is patentable over the Lantz patents. Grogan fails to cure all of the deficiencies of the Lantz patents. Accordingly, claim 19 is patentable over the applied combination of references.

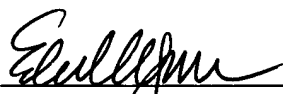
Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.


Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Fee Amendment, Commissioner for Patents, Washington, D.C. 20231 on March 20, 2003


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MARKED-UP AMENDED CLAIMS 1, 10 AND 24

1. (Amended) An insulated shipping container comprising:

(a) an outer box;

(b) an insulated insert, said insulated insert being slidably removably disposed within said outer box, said insulated insert comprising

(i) a foamed polymer body shaped to define a rectangular prismatic cavity bounded by four rectangular side walls and a bottom wall, said foamed polymer body having an open top end, and

(ii) a flexible, un-foamed polymer bag, said flexible, un-foamed polymer bag having a generally uniform width over its length and being integrally bonded to said foamed polymer body along said rectangular prismatic cavity, said open top end and said four rectangular side walls; and

(c) an inner box, said inner box being slidably removably disposed within said insulated insert.

10. (Amended) The insulated shipping container as claimed in claim [9] 1 wherein said generally uniform width of said flexible, un-foamed polymer bag is sized to be approximately equal to the outer dimension of said foamed polymer bag.

NAB body

Product-by-process claim

24. (Amended) An insulated shipping container made [according to the] by a method comprising the steps of: [claim 22]

(a) providing a machine including

(i) a base portion with an internal cavity, an upper surface, and a source of vacuum connecting to said internal cavity;

(ii) a plug member disposed upon said upper surface;

(iii) a peripheral array of holes circumscribing said plug member and opening through said upper surface to said internal cavity of said base portion;

(iv) an array of cooperative wall members associated with said base portion, said wall members in a first position opening away from one another to leave said plug member exposed upon said base portion, said wall members closing together on said base portion to a second position in which said wall members engage one another and cooperatively define an enclosure surrounding said plug member in spaced relation thereto;

(v) said cooperative wall members each having a respective top edge spaced from said base portion, and a lid member cooperating with said wall members to substantially close said enclosure;

(b) providing a corrugated fiberboard box having an open end and a closed end;

(c) positioning said corrugated fiberboard box in an inverted manner over said plug member with said closed end of said corrugated fiberboard box in contact with the top of said plug member;

(d) providing an elongated plastic bag having an open end, a closed end and a generally uniform width over its length;

new (e) positioning said elongated plastic bag over said corrugated fiberboard box in an inverted manner, with said closed end of said elongated plastic bag in contact with the closed end of said corrugated fiberboard box, and drawing the remainder of said

elongated plastic bag over the top of the base member and the inside surfaces of the cooperative wall members, with the open end of said elongated plastic bag inverted over the top edges of the cooperative wall members, thus creating an annular recess around said corrugated cardboard box;

cl.22 > (f) tearing said elongated plastic bag around its perimeter at a location covering said corrugated fiberboard box;

cl.22 > (g) removing the closed portion of the torn elongated plastic bag;

cl.22 > (h) securing the remainder of the torn elongated plastic bag to the corrugated fiberboard box;

cl.22 > (i) injecting foaming polymer material into said annular recess;

cl.22 > (j) closing said annular recess with a lid while allowing said foaming polymer material to foam; and

(k) allowing said foaming polymer material to cure.